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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,213	12/06/2000	Terry Si-Fong Cheng	18-13-16	8623

7590

05/04/2004

Docket Administrator (Rm. 3C-512)  
Lucent Technologies Inc.  
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EXAMINER

WILSON, ROBERT W

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 05/04/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/731,213

Applicant(s)

CHENG ET AL.

Examiner

Robert W Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13 is/are rejected.
- 7) ☒ Claim(s) 1-10 and 14-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/2/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date Z.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

**1.0** The application of Cheng et. al. entitled "METHOD OF SCHEDULING A QUALITY OF SERVICE LEVEL IN A HIGH DATA RATE SYSTEM" filed on 12/06/2000 without foreign priority was examined. Claims 1-18 are pending.

#### *Claim Rejections - 35 USC § 103*

**2.0** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3.0** **Claims 11-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin (U.S. Patent No.; 5,982,748).

Referring to **Claim 11**, Yin teaches: A method of scheduling a quality of service level to an end user's data transmitted from a base station ("base station" only appears in the preamble and not the body of the claim which means it represents intended use; therefore, "base station" was given no weight. Schedule based upon QoS in a network node per col. 2 lines 23-46 or Figs 1-7)

Establishing a quality of service level for each end user (QoS associated with each request per Fig 3)

Obtaining for each end user a result based on the amount of data previously sent to that end user during a specified interval of time (Determine Existing Subscriber Bandwidth or amount of data previously sent during a specified interval of time per Figs 4-7)

Combining, for each end user, the result with the quality of service level for each end user to obtain a sum (Add Existing Subscribed Bandwidth to PCR or SCR\_new or MCR\_new per Figs 4-6)

Using the sum to determine the next end user to receive data (Add Existing Subscribed Bandwidth to PCR or SCR\_new or MCR\_new to determine the new value for receive data per per Figs 4-6)

Yin does not expressly call for: end user but teaches request for bandwidth per Fig 3.

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It would have been obvious to one of ordinary skill in the art at the time of the invention that the request for bandwidth is provided by an end user.

**In Addition Yin teaches:**

Regarding **Claim 12**, wherein the result is based on the amount of data previously sent to that end user during a specific interval of time (Existing Subscribed Bandwidth or amount of data previously send during a specific interval of time per Figs 4-7)

Regarding **Claim 13**, further comprising the step of including a data rate request by the end user to obtain the result (Receives a Connection Request or request from end user per Fig s 4-17)

***Claim Objections***

**4.0**     **Claims 1-10** are objected to because of the following informalities:

Referring to **Claim 1**, the wording “dividing the indicated rate by the average rate to obtain a result” is objected to because there is no antecedent basis for “indicated rate”. The examiner recommends modifying the wording of the claim to so that there is antecedent basis.

**Claims 2-9** are objected to because they depend upon **claim 1**. Appropriate correction is required.

***Claim Objections***

**5.0**     **Claims 14-18** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The present invention is directed to method for establishing a quality of service for an end user which obtains results by summing the previous result plus QoS to levels into a sum comprising the step of dividing the amount of data sent to an end user during a specific interval of time by that interval of time to obtain an average rate of data transmission and including the average rate of data transmission to obtain the result.

The closest prior art is Yin et. al. (U.S. Patent No.: 5,892,748). Yin teaches: establsihing a quality of service for an end user which obtains a result by summing the previous result plus QoS

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to levels into a sum but does not teach dividing the amount of data send to an end user during a specific interval of time as claimed in **Claim 14**.

**In Addition:**

**Claims 15- 18** are dependent upon **Claim 14**.

***Conclusion***

**6.0** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W Wilson whose telephone number is 703/305-4102. The examiner can normally be reached on M-F (8:00-4:30).

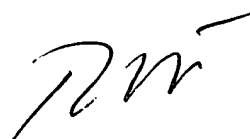
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Robert W Wilson  
Examiner  
Art Unit 2661

RWW  
April 23, 2004



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